

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2384

Introduced by Assembly Member Gilmore

February 19, 2010

An act to amend Sections 830.2 and 830.5 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2384, as amended, Gilmore. Peace officers: correctional officers: parole agents.

Under existing law any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation is a peace officer if his or her primary duties are the investigation and apprehension of inmates, wards, parolees, parole violators, or escapees from state institutions, among other duties, as provided. Under existing law parole officers of the department are peace officers but may only carry a firearm if approved by the director of the department on a case-by-case or unit-by-unit basis.

This bill would include a ~~parole officer~~ *member of the Division of Adult Parole Operations or the Division of Juvenile Facilities* of the department in the same category of peace officers as a member of the Office of Correctional Safety if his or her primary duties are those described above for a member of the Office of Correctional Safety to qualify as a peace officer, *with the additional requirement that the peace officer's duties also include the enforcement of conditions of parole and the rendering of mutual aid to any other law enforcement agency.*

This bill would make conforming and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 830.2 of the Penal Code is amended to
2 read:

3 830.2. The following persons are peace officers whose authority
4 extends to any place in the state:

5 (a) Any member of the Department of the California Highway
6 Patrol including those members designated under subdivision (a)
7 of Section 2250.1 of the Vehicle Code, provided that the primary
8 duty of the peace officer is the enforcement of any law relating to
9 the use or operation of vehicles upon the highways, or laws
10 pertaining to the provision of police services for the protection of
11 state officers, state properties, and the occupants of state properties,
12 or both, as set forth in the Vehicle Code and Government Code.

13 (b) A member of the University of California Police Department
14 appointed pursuant to Section 92600 of the Education Code,
15 provided that the primary duty of the peace officer shall be the
16 enforcement of the law within the area specified in Section 92600
17 of the Education Code.

18 (c) A member of the California State University Police
19 Departments appointed pursuant to Section 89560 of the Education
20 Code, provided that the primary duty of the peace officer shall be
21 the enforcement of the law within the area specified in Section
22 89560 of the Education Code.

23 (d) (1) Any member of the Office of Correctional Safety ~~or any~~
24 ~~parole officer~~ of the Department of Corrections and Rehabilitation,
25 provided that the primary duties of the peace officer shall be the
26 investigation or apprehension of inmates, wards, parolees, parole
27 violators, or escapees from state institutions, the transportation of
28 those persons, the investigation of any violation of criminal law
29 discovered while performing the usual and authorized duties of
30 employment, and the coordination of those activities with other
31 criminal justice agencies.

32 (2) Any member of the Office of Internal Affairs of the
33 Department of Corrections and Rehabilitation, provided that the
34 primary duties shall be criminal investigations of Department of
35 Corrections and Rehabilitation personnel and the coordination of

1 those activities with other criminal justice agencies. For purposes
2 of this subdivision, the member of the Office of Internal Affairs
3 shall possess certification from the Commission on Peace Officer
4 Standards and Training for investigators, or have completed
5 training pursuant to Section 6126.1 of the Penal Code.

6 *(3) Any member of the Division of Adult Parole Operations or*
7 *the Division of Juvenile Justice of the Department of Corrections*
8 *and Rehabilitation, provided that the primary duties of the peace*
9 *officer shall be the investigation or apprehension of inmates,*
10 *wards, parolees, parole violators, or escapees from state*
11 *institutions, the transportation of those persons, the investigation*
12 *of any violation of criminal law discovered while performing the*
13 *usual and authorized duties of employment, the enforcement of*
14 *conditions of parole imposed on any person in this state on parole,*
15 *the coordination of those activities with other criminal justice*
16 *agencies, and the rendering of mutual aid to any other law*
17 *enforcement agency.*

18 (e) Employees of the Department of Fish and Game designated
19 by the director, provided that the primary duty of those peace
20 officers shall be the enforcement of the law as set forth in Section
21 856 of the Fish and Game Code.

22 (f) Employees of the Department of Parks and Recreation
23 designated by the director pursuant to Section 5008 of the Public
24 Resources Code, provided that the primary duty of the peace officer
25 shall be the enforcement of the law as set forth in Section 5008 of
26 the Public Resources Code.

27 (g) The Director of Forestry and Fire Protection and employees
28 or classes of employees of the Department of Forestry and Fire
29 Protection designated by the director pursuant to Section 4156 of
30 the Public Resources Code, provided that the primary duty of the
31 peace officer shall be the enforcement of the law as that duty is
32 set forth in Section 4156 of the Public Resources Code.

33 (h) Persons employed by the Department of Alcoholic Beverage
34 Control for the enforcement of Division 9 (commencing with
35 Section 23000) of the Business and Professions Code and
36 designated by the Director of Alcoholic Beverage Control, provided
37 that the primary duty of any of these peace officers shall be the
38 enforcement of the laws relating to alcoholic beverages, as that
39 duty is set forth in Section 25755 of the Business and Professions
40 Code.

1 (i) Marshals and police appointed by the Board of Directors of
2 the California Exposition and State Fair pursuant to Section 3332
3 of the Food and Agricultural Code, provided that the primary duty
4 of the peace officers shall be the enforcement of the law as
5 prescribed in that section.

6 (j) The Inspector General, pursuant to Section 6125, and the
7 Chief Deputy Inspector General, Chief Assistant Inspector General,
8 Deputy Inspector General In Charge, Senior Deputy Inspector
9 General, Deputy Inspector General, Senior Assistant Inspector
10 General, Special Assistant Inspector General, and those employees
11 of the Inspector General as designated by the Inspector General,
12 are peace officers, provided that the primary duty of these peace
13 officers shall be conducting audits of investigatory practices and
14 other audits, as well as conducting investigations, of the
15 Department of Corrections and Rehabilitation, Division of Juvenile
16 Justice and the Board of Parole Hearings.

17 SEC. 2. Section 830.5 of the Penal Code is amended to read:

18 830.5. The following persons are peace officers whose authority
19 extends to any place in the state while engaged in the performance
20 of the duties of their respective employment and for the purpose
21 of carrying out the primary function of their employment or as
22 required under Sections 8597, 8598, and 8617 of the Government
23 Code. Except as specified in this section, these peace officers may
24 carry firearms only if authorized and under those terms and
25 conditions specified by their employing agency:

26 (a) A parole officer of the Department of Corrections and
27 Rehabilitation, ~~including the Division of Juvenile Facilities,~~
28 probation officer, deputy probation officer, or a board coordinating
29 parole agent employed by the Board of Parole Hearings. Except
30 as otherwise provided in this subdivision, the authority of these
31 parole or probation officers shall extend only as follows:

32 (1) To conditions of parole or of probation by any person in this
33 state on parole or probation.

34 (2) To the escape of any inmate or ward from a state or local
35 institution.

36 (3) To the transportation of persons on parole or probation.

37 (4) To violations of any penal provisions of law which are
38 discovered while performing the usual or authorized duties of his
39 or her employment.

1 (5) To the rendering of mutual aid to any other law enforcement
2 agency.

3 For the purposes of this subdivision, “parole agent” shall have
4 the same meaning as parole officer of the Department of
5 Corrections and Rehabilitation.

6 Any parole officer of the Department of Corrections and
7 Rehabilitation or the Board of Parole Hearings is authorized to
8 carry firearms, but only as determined by the director on a
9 case-by-case or unit-by-unit basis and only under those terms and
10 conditions specified by the director or chairperson. The Department
11 of Corrections and Rehabilitation, Division of Juvenile Facilities,
12 shall develop a policy for arming peace officers of the Department
13 of Corrections and Rehabilitation, Division of Juvenile Facilities,
14 who comprise “high-risk transportation details” or “high-risk
15 escape details” no later than June 30, 1995. This policy shall be
16 implemented no later than December 31, 1995.

17 The Department of Corrections and Rehabilitation, Division of
18 Juvenile Facilities, shall train and arm those peace officers who
19 comprise tactical teams at each facility for use during “high-risk
20 escape details.”

21 (b) A correctional officer employed by the Department of
22 Corrections and Rehabilitation or any employee of the Department
23 of Corrections and Rehabilitation, Division of Juvenile Facilities,
24 having custody of wards or the Inspector General of the Youth
25 and Adult Correctional Agency or any internal affairs investigator
26 under the authority of the Inspector General or any employee of
27 the Department of Corrections and Rehabilitation designated by
28 the Secretary of the Department of Corrections and Rehabilitation
29 or any correctional counselor series employee of the Department
30 of Corrections and Rehabilitation or any medical technical assistant
31 series employee designated by the Secretary of the Department of
32 Corrections and Rehabilitation or designated by the secretary and
33 employed by the State Department of Mental Health or employee
34 of the Board of Prison Terms designated by the Secretary of the
35 Youth and Adult Correctional Agency or employee of the
36 Department of Corrections and Rehabilitation, Division of Juvenile
37 Facilities, designated by the Chief Deputy Secretary, Division of
38 Juvenile Facilities, or any superintendent, supervisor, or employee
39 having custodial responsibilities in an institution operated by a

1 probation department, or any transportation officer of a probation
2 department.

3 (c) The following persons may carry a firearm while not on
4 duty: a parole officer of the Department of Corrections and
5 Rehabilitation, including the Division of Juvenile Facilities, a
6 correctional officer or correctional counselor employed by the
7 Department of Corrections and Rehabilitation or any employee of
8 Corrections and Rehabilitation, Division of Juvenile Facilities,
9 having custody of wards or any employee of the Department of
10 Corrections and Rehabilitation designated by the Secretary of the
11 Department of Corrections and Rehabilitation. A parole officer of
12 the Board of Parole Hearings may carry a firearm while not on
13 duty only when so authorized by the chairperson of the board and
14 only under the terms and conditions specified by the chairperson.
15 Nothing in this section shall be interpreted to require licensure
16 pursuant to Section 12025. The secretary or chairperson may deny,
17 suspend, or revoke for good cause a person's right to carry a
18 firearm under this subdivision. That person shall, upon request,
19 receive a hearing, as provided for in the negotiated grievance
20 procedure between the exclusive employee representative and the
21 Department of Corrections and Rehabilitation, or the Board of
22 Parole Hearings, to review the secretary's or the chairperson's
23 decision.

24 (d) Persons permitted to carry firearms pursuant to this section,
25 either on or off duty, shall meet the training requirements of Section
26 832 and shall qualify with the firearm at least quarterly. It is the
27 responsibility of the individual officer or designee to maintain his
28 or her eligibility to carry concealable firearms off duty. Failure to
29 maintain quarterly qualifications by an officer or designee with
30 any concealable firearms carried off duty shall constitute good
31 cause to suspend or revoke that person's right to carry firearms
32 off duty.

33 (e) The Department of Corrections and Rehabilitation shall
34 allow reasonable access to its ranges for officers and designees of
35 either department to qualify to carry concealable firearms off duty.
36 The time spent on the range for purposes of meeting the
37 qualification requirements shall be the person's own time during
38 the person's off-duty hours.

1 (f) The Secretary of the Department of Corrections and
2 Rehabilitation shall promulgate regulations consistent with this
3 section.

4 (g) “High-risk transportation details” and “high-risk escape
5 details” as used in this section shall be determined by the Chief
6 Deputy Secretary, Division of Youth Facilities, or his or her
7 designee. The chief deputy secretary, or his or her designee, shall
8 consider at least the following in determining “high-risk
9 transportation details” and “high-risk escape details”: protection
10 of the public, protection of officers, flight risk, and violence
11 potential of the wards.

12 (h) “Transportation detail” as used in this section shall include
13 transportation of wards outside the facility, including, but not
14 limited to, court appearances, medical trips, and interfacility
15 transfers.

16 (i) This section does not apply to a parole ~~officer~~ *agent* of the
17 Department of Corrections and Rehabilitation who is a peace
18 officer pursuant to paragraph ~~(1)~~ (3) of subdivision (d) of Section
19 830.2.